

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Jason Spellman,

Plaintiff

v.

Clark County Detention Center, et al.,

Defendants

Case No. 2:23-cv-00769-CDS-MDC

Order Dismissing And  
Closing Case

Plaintiff Jason Spellman brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while in custody at the Clark County Detention Center. ECF No. 7. On January 8, 2024, I ordered Spellman to file an amended complaint by February 7, 2024. ECF No. 6. I also warned Spellman that the action could be dismissed if he failed to file an amended complaint by that deadline. *Id.* at 9. That deadline expired and Spellman did not file an amended complaint, move for an extension, or otherwise respond.

**I. Discussion**

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits;

1 and (5) the availability of less drastic alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460  
2 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

3 The first two factors, the public's interest in expeditiously resolving this litigation and  
4 the court's interest in managing its docket, weigh in favor of dismissing Spellman's claims. The  
5 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
6 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading  
7 ordered by the court or prosecuting an action. *See Anderson v. Air W., Inc.*, 542 F.2d 522, 524 (9th  
8 Cir. 1976). The fourth factor—the public policy favoring disposition of cases on their merits—is  
9 greatly outweighed by the factors favoring dismissal.

10 The fifth factor requires the court to consider whether less drastic alternatives can be  
11 used to correct the party's failure that brought about the court's need to consider dismissal. *See*  
12 *Yourish v. California Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less  
13 drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*  
14 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive force  
15 of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives prior to  
16 disobedience of the court's order as satisfying this element[,]” *i.e.*, like the “initial granting of leave  
17 to amend coupled with the warning of dismissal for failure to comply[,]” have been “eroded” by  
18 *Yourish*). Courts “need not exhaust every sanction short of dismissal before finally dismissing a  
19 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779 F.2d 1421,  
20 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and unless Spellman  
21 files an amended complaint, the only alternative is to enter a second order setting another  
22 deadline. But the reality of repeating an ignored order is that it often only delays the inevitable  
23 and squanders the Court's finite resources. The circumstances here do not indicate that this case  
24 will be an exception: there is no hint that Spellman needs additional time or evidence that he did  
25 not receive my screening order. Setting another deadline is not a meaningful alternative given  
26 these circumstances. So the fifth factor favors dismissal.

The Clerk of Court is kindly directed to enter judgment accordingly and close this case. No other documents may be filed in this now-closed case. If Spellman wishes to pursue his claims, he must file a complaint in a new case.

United States District Judge